

*Alaska State Commission for Human Rights*

*1995 Annual Report*

March 8, 1996

STATE OF ALASKA  
HUMAN RIGHTS COMMISSION

The Honorable Tony Knowles, Governor of Alaska  
The Honorable Drue Pearce, President, Alaska Senate  
The Honorable Gail Phillips, Speaker, Alaska House of Representatives

On behalf of the Commission, I am pleased to submit the 1995 Annual Report of the Alaska State Commission for Human Rights, the agency charged with enforcing Alaska's Human Rights Law.

In 1995 Commission staff answered over 5,200 inquiries from the public and twelve percent more Alaskans filed complaints of discrimination than in the previous year. Complaints of discrimination based on race, physical disability and retaliation rose significantly. The instances where staff found the allegations in a complaint were supported by substantial evidence more than tripled.

Despite the ever increasing demand for services, our skilled staff completed ten percent more investigations than in 1994. However, as complaint filings have increased in each of the last five years the Commission's inventory is at an all time high. The burgeoning inventory results in Alaskans waiting longer for the completion of the investigation of their complaints.

The Commission continued its efforts to reach out and educate Alaskans about the human rights laws. In addition to holding a meeting in Kotzebue this year, the Commission staff provided educational presentations to small businesses, public agencies, and private non-profit groups in Nome, Fairbanks, Juneau, Seward, Ketchikan and Anchorage.

The Commission will continue its commitment to fair enforcement of Alaska's human rights law. However, with the soaring demand for services, investigation of complaints will be delayed. We ask for your support of our efforts to prevent and eliminate discrimination in Alaska.



**EDNA DEVRIES, Chairman**  
**ALASKA STATE COMMISSION FOR HUMAN RIGHTS**

## **PUBLIC HEARING CASES**



In **Christiane H. Havel v. American Mechanical Inc.**, complainant alleged that the employer did not hire her because of her sex. Commission staff found substantial evidence supported the complaint. The complainant filed suit in federal court and the Commission administratively closed the case.

In **Viola K. Smith v. Federal Express**, complainant alleged her employer paid her less than similarly situated male employees because of her race and her sex. Staff found substantial evidence supported the allegation. The Commission held a hearing in August 1995. In January 1996 the hearing examiner issued a proposed decision in favor of the employer. The proposed decision is pending before the Commission.

In **Peter Braveman v. Willow Woods Apartments**, complainant alleged that the apartment owners would not rent an apartment unit because one of the prospective residents was mentally disabled. Staff found substantial evidence supported the allegations. Before the hearing scheduled for September 1995, the parties agreed to settle.

In **Leroy Elliot v. Anchor Arms Hotel**, complainant alleged that the owner of the hotel refused to rent him a room because of his race. Staff found substantial evidence supported the complaint. The Commission settled the case.

In **William Toliver v. Anchor Arms Hotel**, complainant alleged that the owner of the hotel refused to rent him a room because of his race. Staff found substantial evidence supported the complaint. The Commission settled the case.

In **Kandee L. Murr v. Reeve Aleutian Airways**, complainant alleged that her employer did not recall her from a lay-off because she had become physically disabled. Staff found substantial evidence supported the complaint. Before the hearing scheduled for October 1995, the parties agreed to a settlement of \$5,000.

### **HAZARDS OF THE JOB**

*A lumberjack who worked as an equipment operator for a timber company injured his elbow at work and underwent minor surgery. Four months later, his doctor released him to work without restrictions but his employer refused to rehire him because he was viewed as a hazard to the company. The operator filed a complaint claiming the employer perceived him to be physically disabled and did not rehire him for that reason. Staff investigated the complaint and found that the employer refused to rehire the operator because it believed him to be disabled. Under the terms of the Conciliation Agreement the company agreed to: rehire the operator; pay him \$36,000; and conduct training for its supervisory staff on the laws prohibiting discrimination against persons with disabilities.*

### **SETTING WRONGS TO RIGHT**

*A female electrical designer who worked on oilfield industry projects alleged that her employer subjected her to sexist comments and sexual innuendos and laid her off because of her sex. After filing a complaint with the Commission, the electrical designer and her employer reached a settlement. The employer agreed to rehire the employee, pay her \$37,000 in back wages, and train its workers in the laws prohibiting discrimination based on sex.*

In **Barbara Ezell v. State of Alaska**, complainant alleged that her prospective employer refused to accommodate her need for a work schedule that did not conflict with her Sabbath observances. Staff found substantial evidence supported the complaint. Before the hearing scheduled for December 1995, the parties agreed to a settlement of \$39,000.

In **John T. Simpson v. Seekins Ford Lincoln Mercury**, complainant alleged that his employer demoted him because of his race and fired him in retaliation for protesting against discrimination. Staff found substantial evidence supported the complaint. The Commission held a hearing in December 1995 and has not yet decided the case.

In **Robert S. Butt v. Westward Seafoods**, complainant alleged his employer discriminated against him because of his marital status. Staff found that substantial evidence supported the allegation. The Commission scheduled a public hearing for January 1996.

In **Robert J. Welch v. Alyeska Pipeline**, complainant alleged that his employer did not hire him because of his race. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for February 1996.

In **Cynthia Folse v. Sportsman Marine Supply**, complainant alleged that her employer sexually harassed her. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for March 1996.

In **Patricia M. Knight v. Sportsman Marine Supply**, complainant alleged that her employer sexually harassed her. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for March 1996.

In **Roswell L. Schaeffer v. Alaska Court System**, complainant alleged the employer did not hire him because of his race. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for April 1996.

In **Terra J. Richardson v. Pizza Hut**, complainant alleged that the employer did not hire her because of her pregnancy. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for April 1996.

#### **SHAMEFULLY SELECTIVE SERVICE**

*A Black woman filed a complaint alleging a hair salon denied her services because of her race. She alleged that a hairdresser told her he knew how to give haircuts to Blacks but that the salon "did not want Black traffic" in its business. The woman said the hairdresser offered to give her Caucasian friend a haircut if she wanted one. The salon's owner denied the allegations, stating that her salon catered to both Black and Caucasian clientele. Staff investigated the complaint and issued a finding of substantial evidence of discrimination. The owner signed a Conciliation Agreement which required her to disseminate a statement of policy against discrimination in places of public accommodation. The policy statement also provided that failure on the part of any employee or commercial tenant to observe and implement such policy shall constitute grounds for disciplinary action, including dismissal and cancellation of salon space contracts.*

#### **PAYING LESS COSTS MORE**

*A female power house operator employed by a seafood processor filed a complaint alleging that her employer paid her less than male operators performing the same work and denied her a promotion because of her sex. During investigation, the employer offered to settle the complaint for \$7,827, expungement of the operator's personnel file, and a job reference. The employee accepted the settlement offer and staff closed the case after the parties signed a Predetermination Settlement agreement.*

In **John W. Ferrell v. Houston Contracting Company**, complainant alleged that the employer did not hire him because of his race. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for May 1996.

In **Nora A. Walker v. Petro Star Inc.**, complainant alleged that another employee sexually harassed her and that her employer did not take timely and effective action to stop the harassment. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for June 1996.

In **Mary Ellen McGrew v. State of Alaska**, complainant alleged that her employer failed to accommodate her physical disability. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for July 1996.

In **Freda Meili v. Boot Country**, complainant alleged that her employer subjected her to a hostile environment and constructively discharged her because of her sex and because she was a parent. Staff found substantial evidence supported the complaint. The Commission scheduled a hearing for August 1996.

In **Ronald R. Zuniga v. Inlet Tower Suites Hotel**, complainant alleged that his employer subjected him to a hostile environment and fired him because of his physical disability. Staff found substantial evidence supported the complaint. The Commission scheduled a prehearing conference for January 1996.

In **Leviticus Smith, Jr. v. MarkAir**, complainant alleged that he was fired because of his race. Staff found substantial evidence supported the complaint. Before the Commission scheduled a public hearing MarkAir filed bankruptcy under Chapter 11 of the Bankruptcy Code. Subsequently, the Chapter 11 proceeding was converted to Chapter 7. Because the company was dissolving, staff asked the Commission to authorize the administrative closure of the case.

## LITIGATION

**Andrea Meyer v. State of Alaska and ASCHR.** Andrea Meyer appealed from a Commission determination that substantial evidence did not support her allegations that

### **SUPERVISION GONE BAD**

*A female scientist alleged that her supervisor criticized her technical expertise, referred to her in a sexually derogatory manner, and threatened to beat her. She said that her working conditions became so intolerable that she was forced to resign. After staff initiated investigation, the employer offered to settle. In a Predetermination Settlement, the employer agreed to: pay the scientist \$9,569 in back wages; reinstate her in a location where she would not have any contact with her former supervisor; counsel the supervisor and place a letter of counseling in his personnel file; and provide the scientist with a job reference.*

### **NO ROOM AT THE INN**

*A hotel waitress alleged that her employer terminated her from her job because she was pregnant. The employer denied the allegation stating that the hotel hired the woman for the busy summer season and terminated her due to a reduction in force. Staff investigated the complaint and found that the hotel was hiring more wait-staff at the time it terminated the woman. Staff determined that substantial evidence supported the woman's allegation of discrimination based on pregnancy and successfully conciliated the case. The hotel developed and disseminated to all employees a policy against discrimination based on pregnancy and paid the waitress \$2,185.20 in back wages. The waitress declined the hotel's offer of reinstatement because she was leaving the state.*



the Department of Fish and Game failed to extend her permanent seasonal employment as a Fish Biologist I because of her sex. On October 26, 1993, the superior court ruled in favor of Meyer and remanded the case to the Commission for further proceedings. The Commission was prepared to proceed to public hearing in accordance with the court's decision. However, the State filed a petition with the Alaska Supreme Court requesting review of the superior court's remand. On November 17, 1995, the Alaska Supreme Court affirmed the superior court's ruling in favor of Ms. Meyer.

**David Berrey v. State of Alaska.** David Berrey appealed from a Commission determination to close his case for lack of substantial evidence. Berrey, a Caucasian emergency fire fighter, filed a complaint alleging that the State of Alaska, Department of Natural Resources, Division of Forestry, discriminated against him because of his association with Alaska Natives. Mr. Berrey appealed to the superior court in Fairbanks alleging that the agency incorrectly applied the law and that the determination of the Commission was not supported by the administrative record. On May 15, 1995, the superior court affirmed the findings of the Commission and dismissed Mr. Berrey's appeal.

**Gary Baker, Joyce Baker and Kevin Thomas v. Municipality of Anchorage, Anchorage Equal Rights Commission, and Paula Haley.** The plaintiffs have sued the Municipality of Anchorage, Anchorage Equal Rights Commission, and Paula Haley, in her official capacity as executive director of the Alaska State Commission for Human Rights (ASCHR). The plaintiffs claim that their right to freedom of religion would be violated if they are compelled to rent their apartments to unmarried cohabiting couples. The defendants have moved for summary judgment on the basis that there is no actual case in controversy between the parties and that Paula Haley, in her official capacity as executive director of ASCHR, is entitled to sovereign immunity. The federal court is awaiting the submission of the parties' final briefs and will then take the case under advisement.

#### **QUESTION OF RELEVANCE**

*A woman filed a complaint alleging that a mortgage company discriminated against her because of her sex and marital status. She alleged that when she applied to refinance her home in her own name, the mortgage company asked if she was seeking a divorce from her husband. The company denied the allegations stating that it was legally permitted to ask mortgage applicants their marital status. Staff investigated the complaint and found no evidence to support the claim of sex discrimination, but found evidence of marital status discrimination. In a Conciliation Agreement, the company agreed to send complainant a letter admitting its mistake and inviting her to reapply for refinancing. The company also agreed to adopt a written policy stating that it would not inquire as to an applicant's plans to divorce when the applicant is applying on his/her own and is not basing the application on his/her expectation of receiving funds from a spouse pursuant to a divorce decree or property settlement. The agreement stipulated that the mortgage company may inquire about the willingness of the applicant's spouse to execute a waiver of homestead rights where the extension of credit is to be secured by residential property.*

#### **WAREHOUSE WOES**

*A Mexican warehouse worker filed a complaint alleging that his supervisors and coworkers nicknamed him "Pancho" and often referred to him in notes and conversations as "Spic," "Yo Taco", and other derogatory names. He alleged that instead of taking corrective action, his supervisors subjected him to different treatment and fired him. The employer denied the worker's allegations, stating that the worker called himself "Pancho", never complained to anyone about discrimination, and was terminated for poor attendance. Staff found that the worker endured an environment tainted by national origin bias, was subjected to different treatment and was fired from his job. Staff successfully conciliated the case. The worker, who had found other employment, rejected the employer's offer of reinstatement and received \$32,000 in damages. The employer revised its EEO policy to include a prohibition against discriminatory harassment in the workplace and trained its workers in anti-discrimination laws with emphasis on racial and national origin harassment.*

# 1995 CASE PROCESSING STATISTICS

## ANALYSIS OF FILINGS BY COMPLAINANT'S SEX

Female	346
Male	318
<b>Total Filings</b>	<b>664</b>

## ANALYSIS OF FILINGS BY COMPLAINANT'S RACE

Caucasian	344
Black	122
Alaska Native	73
Hispanic	41
Asian	38
Unknown	24
American Indian	14
Other	8
<b>Total Filings</b>	<b>664</b>

## ANALYSIS OF FILINGS BY TYPE

Employment	543
Public Accommodation	46
Government Practices	31
Housing	29
Finance	1
Coercion	1
Multiple	13
<b>Total Filings</b>	<b>664</b>

## ORIGIN OF COMPLAINTS FILED WITH ASCHR FOR INITIAL PROCESSING (BY REGION)



## LOCATION OF CASES AT YEAR END INCLUDING FILINGS UNDER WORKSHARING AGREEMENTS



## ANALYSIS OF FILINGS BY BASIS

Basis	Single Basis Complaint	Multiple Basis Complaint
Race/Color	118	112
Sex	94	96
Physical Disability	82	55
Age	37	76
National Origin	24	33
Retaliation for Filing	24	25
Pregnancy	19	5
Marital Status	15	19
Mental Disability	12	19
Retaliation	8	122
Religion	6	5
Parenthood	1	12
Multiple Bases	224	0
<b>Total Filings</b>	<b>664</b>	<b>579</b>

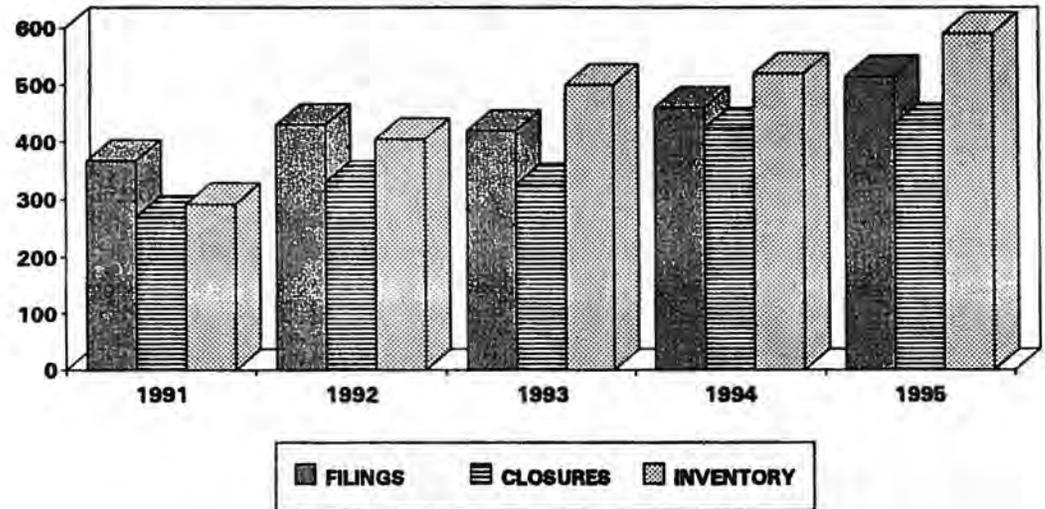
## ANALYSIS OF FILINGS BY ISSUE

Issue	Single Issue Complaint	Multiple Issue Complaint
Discharge	94	203
Failure to Hire	87	27
Terms & Conditions	73	211
Denied Service	33	5
Other	16	18
Failure to Promote	14	34
Sexual Harassment	12	58
Harassment	5	77
Pay Equity	5	22
Demotion	5	17
Eviction	4	11
Failure to Rent	4	0
Failure to Dispatch	3	0
Multiple Issue	309	0
<b>Total Filings</b>	<b>664</b>	<b>683</b>

**ANALYSIS OF 1995 CLOSURES**

REASON FOR CLOSURE	NUMBER OF CLOSURES	PERCENTAGE OF TOTAL
<b>ADMINISTRATIVE:</b>	<b>112</b>	<b>18.63%</b>
Complaint Withdrawn	41	6.82%
Lack of Jurisdiction	14	2.33%
Complainant Not Available	6	1.00%
Failure of Complainant to Proceed	8	1.33%
Complainant to Court	23	3.82%
Administrative Dismissal	20	3.33%
<b>NOT SUBSTANTIAL EVIDENCE</b>	<b>377</b>	<b>62.73%</b>
<b>CONCILIATION/SETTLEMENT:</b>	<b>98</b>	<b>16.31%</b>
Complaint Withdrawn with Successful Settlement	22	3.66%
Predetermination Settlement (PDS)	62	10.32%
Substantial Evidence/ Conciliation Agreement	12	2.00%
Substantial Evidence/ Complainant Rejected Full Relief	2	.33%
<b>HEARING:</b>	<b>14</b>	<b>2.33%</b>
Decision for Complainant	7	1.16%
Pre-Hearing Settlement	6	1.00%
Administrative Dismissal	1	.17%
<b>TOTAL 1995 CLOSURES</b>	<b>601</b>	<b>100%</b>

**FILINGS, CLOSURES AND YEAR END INVENTORY OF CASES PROCESSED BY ASCHR**



**SUMMARY OF CLOSURES**

CATEGORY OF CLOSURE	1993		1994		Detail of 1995 Closures					
	No.	%	No.	%	ASCHR		EEOC		AERC	
					No.	%	No.	%	No.	%
Administrative	102	22.0	96	16.1	75	12.5	22	3.7	15	2.5
Not Substantial Evidence	264	57.0	424	71.1	293	48.7	28	4.7	56	9.3
Conciliation/Settlement	93	20.1	70	11.8	49	8.2	5	0.8	44	7.3
Hearing	4	.9	6	1.0	14	2.3	0	0	0	0
<b>TOTAL CLOSURES</b>	463		596		431*		55		115	
	463		596		601					

\* This total does not include completed investigations for cases still in conciliation or transferred to the hearing unit. ASCHR completed 455 investigations in 1995.

## COMMISSIONERS

**JOYCE E. BAMBERGER**, Anchorage

**EDNA DeVRIES**, Palmer

**FRED DYSON**, Eagle River

**JAMES S. HAMILTON**, Haines

**AARON T. ISAACS, JR.**, Klawock

**SAYOKO MIMOTO-GREENHEART**, Anchorage

**ROBYN F. STATES**, Fairbanks

## COMMISSION STAFF

**Paula M. Haley**, Executive Director

**Mark A. Ertischek**, Human Rights Advocate

**Sharon O. Avery**, Administrative Officer

**Lucinda G. Bay**, Clerk IV

**Marilyn Bennett**, Legal Secretary

**Angelina J. Goguen**, Commission Secretary

**M. Anne Keene**, Docket Officer

**Evelyn A. Ramos**, Director of Investigations

**Helen P. Sharratt**, Director of Special Investigations

**Sharon E. Brown**, Investigator

**Melissa M. Gaspard**, Investigator

**Thomas McClellan**, Investigator

**Timothy Parker**, Investigator

**Fran Rabago**, Investigator

**Joel A. Rothberg**, Investigator

**Stacey Saunders**, Investigator

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NUMBERS ABOVE.

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